

RESOLUTION NO. 4815

**AMENDED RESOLUTION OF APPLICATION
BY THE FALLBROOK PUBLIC UTILITY DISTRICT
REQUESTING THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION TO
TAKE PROCEEDINGS FOR A REORGANIZATION WITH THE RAINBOW MUNICIPAL
WATER DISTRICT AND MAKING CERTAIN FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

*** * * * ***

WHEREAS, the Fallbrook Public Utility District ("Fallbrook") is a Public Utility District organized under the Public Utility District Act, (Pub. Util. Code, § 15500 *et seq.*); and

WHEREAS, the Board of Directors of the Fallbrook Public Utility District desires to adopt an amended Resolution of Application to initiate proceedings pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for the Reorganization of the Fallbrook Public Utility District and Rainbow Municipal Water District (the "Reorganization"); and

WHEREAS, this proposal is made pursuant to Sections 56654 and 56824.12 of the California Government Code for a resolution of application for a Reorganization; and

WHEREAS, the proposed Reorganization is not consistent with the spheres of influence of the Fallbrook Public Utility District or the Rainbow Municipal Water District; and

WHEREAS, the proposed Reorganization includes the following jurisdictional changes and sphere of influence actions:

1. Dissolution of the Rainbow Municipal Water District, a Water District organized under the Municipal Water District Law of 1911 (Water Code, § 71000 *et seq.*).
2. Annexation of territory (formerly) in Rainbow Municipal Water District to Fallbrook Public Utility District.
3. Expansion of Fallbrook Public Utility District's latent sewer powers to include territory formerly in Rainbow Municipal Water District.
4. The Fallbrook Public Utility District's sphere of influence would include the sphere of the Rainbow Municipal Water District and Rainbow Municipal Water District's sphere would be designated as a transitional (zero) sphere.
5. The Fallbrook Public Utility District shall continue to conduct itself under the Public Utility District Act (Pub. Util. Code, § 15500 *et seq.*) after the reorganization.

WHEREAS, a map of the external boundary of the territory subject to the proposed Reorganization is set forth in Exhibit "1", attached hereto and by this reference incorporated herein; and

WHEREAS, on March 10, 2014, the Fallbrook Board of Directors considered Resolution No. 4813 initiating proceedings for the Reorganization, and adopted said Resolution by unanimous vote of those Board Members present; and

WHEREAS, because the Reorganization includes a request to expand Fallbrook's latent sewer powers to include territory formerly in Rainbow Municipal Water District, a public hearing is required to be noticed pursuant to the provisions of Section 56824.12 of the California Government Code; and

WHEREAS, Fallbrook has provided notice of a public hearing to be held on April 28, 2014 as statutorily required, and said notice of public hearing was published in accordance with applicable statutory requirements; and

WHEREAS, a copy of this amended Resolution of Application was made available for public inspection prior to the public hearing; and

WHEREAS, the Fallbrook Board of Directors conducted a public hearing on April 28, 2014, at the date and time set for the public hearing, at which it provided an opportunity for any affected local agency, affected county, or any interested person wishing to appear at the public hearing to provide oral or written testimony on this amended Resolution of Application, including the expansion of Fallbrook's latent sewer powers; and

WHEREAS, the reasons for the proposed Reorganization, and for the designation of the Fallbrook Public Utility District as the successor district after Reorganization, include:

1. The Boards of Directors of the Fallbrook Public Utility District and Rainbow Municipal Water District conducted a joint district consolidation study, which found that combining the two districts' operations into one reorganized district would optimize service and minimize cost to the unified service area by:
 - a. Capturing economies of scale and reducing administrative overhead;
 - b. Sharing equipment and reducing vehicle fleet including heavy/specialty equipment;
 - c. Improving emergency response;
 - d. Enhancing coverage for service zones and pressure zones at district boundaries;
 - e. Integrating and consolidating both districts' management and staff;
 - f. Improving water resources management through use of recycled water within reorganization territory;

- g. Improving the ability of the combined district to fully utilize local water supplies; and
 - h. Strengthening financial capacity.
2. The joint consolidation study concluded a reorganization will save up to \$2.5 million per year.
 3. Reorganization furthers the goals of Government Code section 56001 by streamlining governmental structure.
 4. This Board of Directors of the Fallbrook Public Utility District has determined that the proposed changes in organization are feasible and in the best interest of the constituencies of the district. The two districts have similar infrastructure, employee contracts and water supplies, and contiguous service areas and similar operating environments.

WHEREAS, the territory subject to the proposed reorganization is inhabited as defined in Government Code section 56046; and includes: (a) 35,000 residents over 44 square miles in Fallbrook currently served by the Fallbrook Public Utility District; and (b) 18,000 residents over 79 square miles in portions of Fallbrook, Pala, Bonsall, Rainbow, and unincorporated Oceanside currently served by the Rainbow Municipal Water District.

WHEREAS, the Fallbrook Public Utility District, as the lead agency under the California Environmental Quality Act (CEQA), has prepared a Notice of Exemption for the proposed Reorganization to evaluate potential environmental impacts; and

WHEREAS, the Board of Directors received and carefully reviewed the Notice of Exemption; and

WHEREAS, the Board of Directors has considered all comments received at the public hearing on April 28, 2014, prior to the adoption of this amended Resolution of Application; and

WHEREAS, the Notice of Exemption reflects the Board of Director's independent judgment and analysis; and

WHEREAS, all other legal prerequisites to the adoption of this amended Resolution of Application have been met; and

WHEREAS, the Fallbrook Public Utility District hereby requests the proposed Reorganization be subject to the following terms and conditions:

1. The Rainbow Municipal Water District shall be dissolved and all of its corporate powers shall cease.
2. All territory (formerly) in Rainbow Municipal Water District shall be annexed to the Fallbrook Public Utility District.
3. Fallbrook Public Utility District shall be the successor to the Rainbow Municipal Water District for the purpose of succeeding to all of the rights, duties and obligation of the dissolved Rainbow Municipal Water District,

with respect to enforcement, performance or payment of any outstanding bonds or other contracts, obligations, including the provisions of and other liabilities of the dissolved Rainbow Municipal Water District, including but not limited to:

- i. As of its 2013 audit, the Rainbow Municipal Water District has \$11,223,207 in total liabilities. \$6,702,680 is long-term debt under the Safe Drinking Water State Revolving Fund/American Recovery and Reinvestment Act, with State subsidy for fifty percent (50%) of the principal of the debt. The Rainbow Municipal Water District also received an \$18.2 million State Revolving Fund loan for the Morro reservoir project and the Pala Mesa Tank project, with loan proceeds received after June 20, 2013 and therefore not reflected in the audit.
 - ii. The Rainbow Municipal Water District has an agreement with the City of Oceanside for wastewater treatment and outfall capacity. Under Government Code section 57500, the successor district will succeed to all of the powers, rights, duties, and obligations of this water service contract, and any other contracts of the Rainbow Municipal Water District.
 - iii. Rainbow Municipal Water District's Employee Association Memorandum of Understanding ("MOU").
4. Fallbrook Public Utility District's latent sewer powers shall be expanded to include territory formerly in Rainbow Municipal Water District.
5. The Fallbrook Public Utility District upon the effective date of the Reorganization shall continue to exist and operate pursuant to the provisions of the Public Utility District Act (Pub. Util. Code, § 15500 et seq.), and shall provide the services previously provided within the boundaries of both Fallbrook Public Utility District and Rainbow Municipal Water District.
6. All property, whether real or personal, including all monies (including cash on hand and monies due to uncollected) of the Rainbow Municipal Water District shall be transferred to and vested in Fallbrook Public Utility District, including but not limited to:
 - i. As of its 2013 audit, the Rainbow Municipal Water District has \$104,316,335 in total assets. Key capital assets include 7 pump stations, 12 holding tanks, 4 reservoirs, 318 miles of water pipeline, 6 sewage lift stations, and 55 miles of gravity/force main sewer pipeline.
7. The Fallbrook Public Utility District will use divisional accounting to keep discrete records for two divisions of the district, demarcated by the boundaries of Rainbow Municipal Water District and Fallbrook Utility District that existed before the Reorganization. Under this system, an accounting system will be maintained for each division that, at the point of

reorganization, gives credit for the assets and liabilities of each district that existed before the Reorganization. This will allow Fallbrook Public Utility District, after the Reorganization, the ability to establish accurate divisional budgets and rates and charges based solely on the cost to provide services within each division's service area, so rates in each service area will not be affected by the Reorganization of the other. Fallbrook Utility District will generate a consolidated financial report.

8. Upon the effective date of the Reorganization, Fallbrook Public Utility District shall be authorized and entitled to extend and/or continue to levy, impose, or fix and collect any previously authorized charge, fee, assessment or tax approved, imposed and/or levied by Rainbow Municipal Water District and Fallbrook Public Utility District, including but not limited any rates and charges for the provision of water, sewer and other services and including previously approved and adopted Water Standby/Availability Charges of both the dissolved Rainbow Municipal Water District and Fallbrook Public Utility District.
9. The employees of the Rainbow Municipal Water District will all become employees of the Fallbrook Public Utility District.
10. The Fallbrook Public Utility District and Rainbow Municipal Water District each have an Employee Association Memorandum of Understanding ("MOU"). These MOUs will remain in place for employees until the third quarter 2014, at which time the districts will develop a combined MOU to become effective upon the date of the Reorganization.
11. The Boards of Directors of the Fallbrook Public Utility District and Rainbow Municipal Water District each have contracts with the Board of Administration of the California Public Employees' Retirement System ("PERS") under the PERS "classic" 2.5% at 55 formula. The Fallbrook Public Utility District and PERS will develop a combined contract that shall be deemed a continuation of both districts' PERS contracts pursuant to Government Code section 20508. The Fallbrook Public Utility District's contract shall preserve the classic formula for continuing employee members of PERS. Accumulated contributions, assets and liability for service under the former districts' contracts are vested rights of continuing employee members of PERS, and shall be merged into the contract of the successor district upon reorganization pursuant to Government Code section 20508.
12. The Reorganization shall be subject to the prohibitions set out in Government Code section 56885.5 (a)(4):

"(A) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.

(B) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission."

13. The Board of Directors of the Fallbrook Public Utility District shall be a seven-member board, composed of three directors from the Rainbow Municipal Water District board (selected by the Rainbow Municipal Water District board), and four directors from the Fallbrook Public Utility District board (selected by the Fallbrook Public Utility District board). It is proposed that three of the directors of the FPUD successor board will be elected at-large and four directors by division.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the FALLBROOK PUBLIC UTILITY DISTRICT as follows:

1. The above recitals are true and correct.
2. As the decision-making body for the Fallbrook Public Utility District, the Board of Directors has considered the oral and/ or written testimony made by any affected local agency, affected county, or any interested person appearing at the public hearing on the amended Resolution of Application, including the expansion of Fallbrook's latent sewer powers.
3. As the decision-making body for the Fallbrook Public Utility District, the Board of Directors has reviewed and considered the information contained in the Notice of Exemption set forth in Exhibit "2" and the administrative record.
4. The Notice of Exemption prepared for the Project has been completed in accordance with CEQA and the Guidelines for the Implementation of the CEQA ("Guidelines"), Title 14 of the California Code of Regulations, sections 15000-15387, with appendices.
5. The Board of Directors finds that the Notice of Exemption prepared for the Reorganization has identified and evaluated all potentially significant environmental effects of the proposed Reorganization.
6. The Board of Directors finds that the Notice of Exemption contains a complete and accurate reporting of the environmental impacts associated with the proposed Reorganization and reflects the independent judgment of the Board of Directors.
7. The Board of Directors hereby approves the Notice of Exemption determining that the geographic area in which previously existing powers are exercised under the collective powers of the jurisdictions of Fallbrook Public Utility District and Rainbow Municipal Water District will not change as a result of the Reorganization, thus exempting the proposed Reorganization from environmental review pursuant to the categorical exemption in Section 15320 of the Guidelines.
8. The Board of Directors hereby approves the Notice of Exemption determining that the Reorganization is an organizational or administrative activity that will not result in any direct or indirect physical changes in the environment, thus exempting the proposed Reorganization from environmental review pursuant to Section 15378(b)(5) of the Guidelines.

9. The Board of Directors hereby approves the Notice of Exemption determining that the Reorganization does not have the potential for causing a significant effect on the environment, thus exempting the Reorganization from environmental review pursuant to Section 15061(b)(3) of the Guidelines.
10. The Board of Directors hereby directs that all documents and other materials constituting the record of proceedings for the Reorganization be maintained by the General Manager of the Fallbrook Public Utility District, or his designee, on file at the Fallbrook Public Utility District 990 East Mission Road, Fallbrook, CA 92028.
11. The Board of Directors directs Staff to file a Notice of Exemption with the County Clerk for the County of San Diego.
12. The Board of Directors directs staff to resubmit an amended application to the Local Agency Formation Commission of San Diego County initiating the Reorganization as set forth in this amended Resolution of Application, which includes the related Sphere of Influence modifications, and activation of latent sewer powers, pursuant to the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
13. The General Manager, or his designee, is hereby authorized and directed to prepare and amend the necessary LAFCO Application documents, conduct investigations, refile such application, as applicable, and is authorized and directed to file the Notice of Exemption set forth in Exhibit "2" in accordance with applicable law.
14. The purpose of this amended Resolution of Application is to supplement Resolution No. 4813.

Passed and adopted by the Board of Directors of the Fallbrook Public Utility District at a regular meeting thereof held on April 28, 2014, by the following vote:

AYES:	Davies, Gebhart, McDougal
NOES:	McPhee
ABSTAIN:	None
ABSENT:	Hayden



President of the Board of Directors
Fallbrook Public Utility District

ATTEST:



Secretary of the Board of Directors
Fallbrook Public Utility District

EXHIBIT 1

Territory

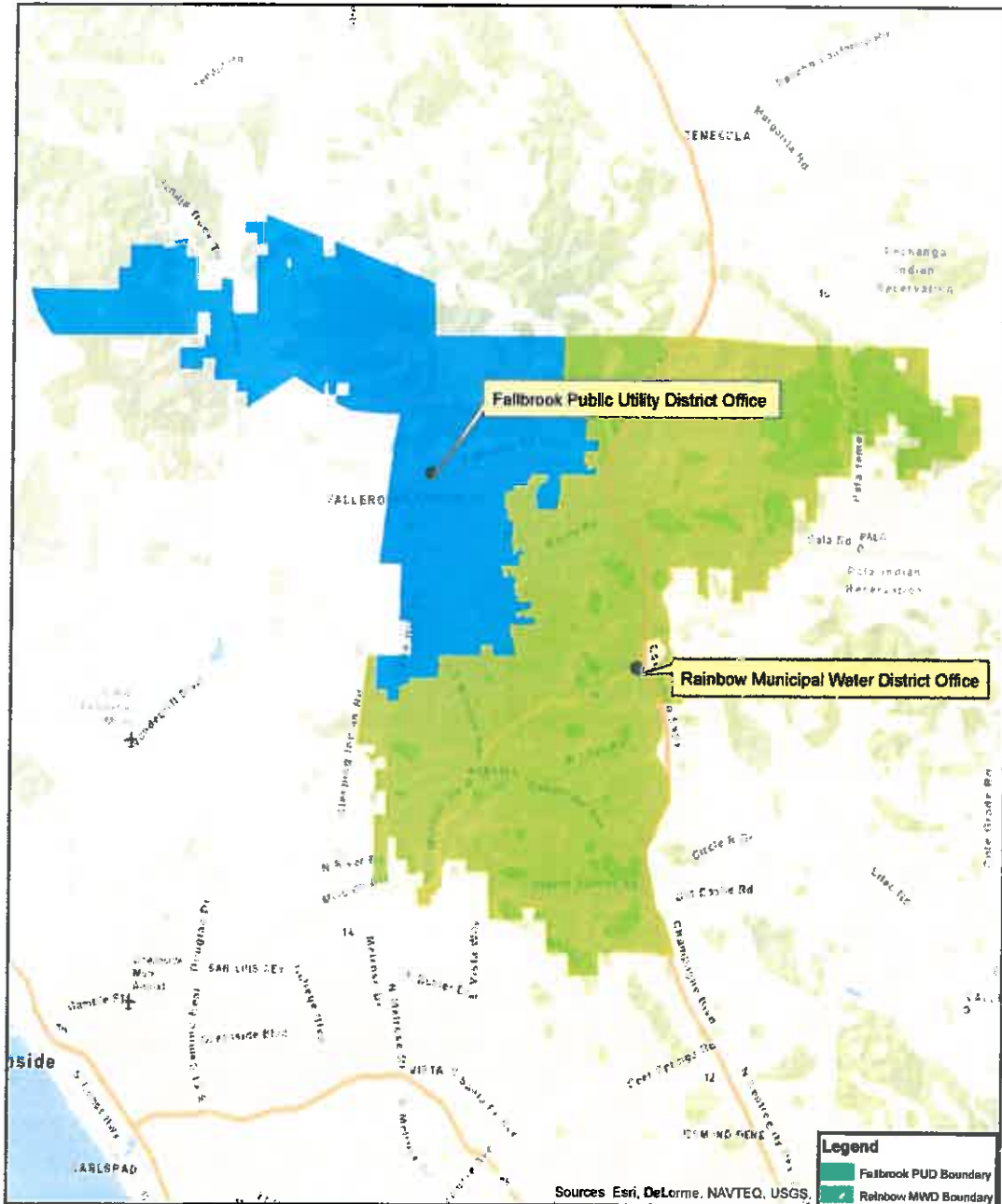


EXHIBIT 2

NOTICE OF EXEMPTION

<p>TO:</p> <p><input type="checkbox"/> Clerk of the Board of Supervisors or <input checked="" type="checkbox"/> County Clerk County of: San Diego</p> <p style="text-align: center;">RECORDER/COUNTY CLERK'S OFFICE 1600 Pacific Highway, Suite 260 P.O. Box 121750 * San Diego, CA 92112-1750 Tel. (619)237-0502 * Fax (619)557-4155</p>	<p>FROM:</p> <p style="text-align: center;">Fallbrook Public Utility District PO Box 2290 Fallbrook, California 92088</p>
1. Project Title:	Fallbrook Public Utility District Reorganization
2. Project Applicant:	Fallbrook Public Utility District
3. Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	A map and description of the external boundary of the territory subject to the proposed Reorganization is set forth in Exhibit "1" attached hereto.
4. (a) Project Location – City:	
(b) Project Location – County:	San Diego
5. Description of nature, purpose, and beneficiaries of Project:	On April 28, 2014, the Fallbrook Public Utility District ("Fallbrook") adopted an amended Resolution of Application requesting that the San Diego County Local Agency Formation Commission take proceedings for a Reorganization with the Rainbow Municipal Water District ("Rainbow"). The Reorganization consists of the dissolution of Rainbow, annexation of territory (formerly) in Rainbow to Fallbrook, expansion of Fallbrook's latent sewer powers to include territory formerly in Rainbow, and a change in Fallbrook's sphere of influence to include the sphere of Rainbow.
6. Name of Public Agency approving project:	Fallbrook Public Utility District
7. Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part	Fallbrook Public Utility District

of the activity:		
8. Exempt status: (check one)		
(a)	<input type="checkbox"/>	Ministerial project.
(b)	<input checked="" type="checkbox"/>	Not a project. State CEQA Guidelines, § 15378(b)(5) (organizational activities)
(c)	<input type="checkbox"/>	Emergency Project.
(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and class number: State CEQA Guidelines, § 15320 (Class 20)
(e)	<input type="checkbox"/>	Declared Emergency.
(f)	<input type="checkbox"/>	Statutory Exemption. State Code section number:
(g)	<input checked="" type="checkbox"/>	Other. Explanation: State CEQA Guidelines, § 15061(b)(3) (no potential for causing significant effect)
9.	Reason why project was exempt:	<p>The Reorganization is exempt under State CEQA Guidelines section 15320 because the geographic area in which previously existing powers are exercised under the collective powers of the jurisdictions of Fallbrook and Rainbow will not change as a result of the Reorganization.</p> <p>The Reorganization is also exempt under State CEQA Guidelines section 15378(b)(5) as an organizational or administrative activity that will not result in any direct or indirect physical changes in the environment.</p> <p>The Reorganization is further exempt under State CEQA Guidelines section 15061(b)(3) because it does not have the potential for causing a significant effect on the environment.</p>
10.	Lead Agency Contact Person:	Brian J. Brady, P.E.
	Telephone:	(760) 728-1125
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.	
12.	Has a Notice of Exemption been filed by the public agency approving the project? N/A	
1.	Was a public meeting held by the lead agency to consider the exemption? Yes If yes, the date of the public meeting was: April 28, 2014	

Signature: _____

Date: _____

Title: _____

Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21100, Public Resources Code.

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.